

REMARKS

Claims 1–3 and 5–20 have been cancelled, and new Claims 21–32 have been added. Former Claim 4 has previously been cancelled. Claims 21–32 remain in the application. Applicant has elected the species of Figure 10 and the subspecies of Figure 3. Applicants request reconsideration of the application as amended in light of the election and the remarks set forth below.

Amendments to Claims

Claims 1–3 and 5–20 have been cancelled, and new Claims 21–32 have been added. Former Claim 4 has previously been cancelled. Claims 21–32 remain in the application.

Support for new Claims 21–32 is found in the specification as filed:

Claim 21	Figure 3; page 12, line 4, through page 13, line 4.
Claim 22	Figure 3.
Claim 23	Figure 7; page 17, lines 1–22.
Claim 24	Figure 8; page 17, lines 9–11.
Claim 25	Page 17, lines 11–12.
Claim 26	Page 17, lines 13–15.
Claim 27	Page 17, lines 13–15.
Claim 28	Page 17, line 16.
Claim 29	Page 17, lines 17–19.
Claim 30	Page 17, lines 19–22.
Claim 31	Figure 10; page 19, line 26, through page 20, line 21.
Claim 32	Figure 10; page 19, line 26, through page 20, line 21.

Election of Species

The Examiner had asked Applicant to select from among the following species:

- A) The species illustrated in drawing Figures 1 and 2;
- B) the species as illustrated in Figure 4;
- C) the species as illustrated in Figure 5;
- D) the species as illustrated in Figure 6;
- E) the species as illustrated in Figure 10; and, if Applicant elects the species of Figure 10,
 - i) the subspecies as illustrated in Figure 3,
 - ii) the subspecies as illustrated in Figure 7, or
 - iii) the subspecies as illustrated in Figure 9.

Applicant has elected the species as illustrated in Figure 10, and the subspecies as illustrated in Figure 3, with traverse. Applicant traverses for the following reason.

Claims 21–30 are directed toward the vest (the subject of Figure 3), separate and apart from the heating/cooling unit (the subject of Figure 10). If the Examiner proceeds with a search and examination on the basis of the Species of Figure 10, he could conceivably find the invention patentable or not patentable on the basis of the heating/cooling unit without ever reaching the subject matter of Claims 21–30.

It should be noted that NONE of the cancelled claims read on the subspecies of Figure 3, and applicant has not contrived a traversal by canceling the former claims. All of the former claims 1–3 and 5–20 required that the vest comprise a fluid-absorbing layer between a pair of retainer layers. Figure 3 does not disclose a fluid-absorbing layer between a pair of retainer layers, and hence none of the former claims read on this subspecies. Had

applicant not added the new claims, there would have been no claims which read on this subspecies.

Correction of Correspondence Address

The Examiner's attention is respectfully drawn to the Declaration and Power of Attorney that was filed in this application on March 21, 2003, revoking previous powers of attorney and appointing the practitioners at Customer Number 23370. A copy of that Declaration and Power of Attorney is enclosed for the convenience of the Examiner. In view of that Power of Attorney, the Office Action mailed October 27, 2003, should have been mailed to the undersigned firm, rather than to applicant. Correction of the correspondence address is respectfully requested.

Timeliness of Response

The Office Action of October 27, 2003 set a one-month date for response, which expired November 27, 2003. A request for a two-month extension of time for filing a response, together with the fee required by 37 C.F.R. 1.17(a)(2), is enclosed. The time for filing a response is thereby extended to January 27, 2003. The foregoing response is therefore timely filed.

The foregoing is believed to be fully responsive to the Office Action dated October 27, 2003. For the reasons set forth above, the present application is believed to be in condition for allowance. Reconsideration of the application is requested, and allowance of the claims at an early date is courteously solicited.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Larry A. Roberts", is written over a horizontal line.

Larry A. Roberts
Reg. No. 31,871

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309-4530
Tel. (404) 745-2409
Fax (404) 541-3368

Attorney Docket: 49088-291643